

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:23-cv-00033-MR
[CRIMINAL CASE NO. 2:06-cr-00004-MR-WCM-1]**

TERENCE HOWARD ROACH,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on Petitioner’s Pro Se “Motion Requesting Certificate of Appealability/Notice of Appeal from United States District Court Western District of North Carolina.” [Doc. 4].

On March 7, 2023, the Court denied and dismissed Petitioner’s Pro Se Motion to Vacate under 28 U.S.C. § 2255 as untimely. [Doc. 2]. The Court declined to issue a certificate of appealability because Petitioner did not make a substantial showing of a denial of a constitutional right. [Id. at 6-7]. Now pending is the instant motion in which Petitioner moves this Court to issue a certificate of appealability.¹ Under Rule 11(a) of the Rules Governing Section 2255 cases, “[i]f the court denies a certificate, a party may not appeal

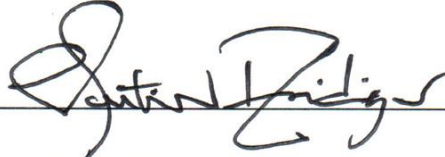
¹ Plaintiff’s filing was also docketed as a Notice of Appeal and transmitted to the Court of Appeals for the Fourth Circuit. [Docs. 5, 6].

the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 22 provides, “[i]f the district judge has denied the certificate, the applicant may request a circuit judge to issue it.” Fed. R. App. P. 22(b)(1). As such, Petitioner’s motion is not properly before this Court, and it will be denied.

IT IS, THEREFORE, ORDERED that Plaintiff’s motion [Doc. 4] is **DENIED**.

IT IS SO ORDERED.

Signed: May 1, 2023



Martin Reidinger
Chief United States District Judge

